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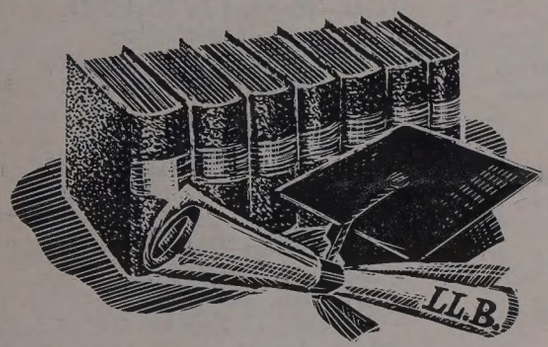

While you will serve the Nation in this special field of endeavor, you will not forget that the real profession of every American is citizenship.

—CALVIN COOLIDGE

★ *A Conference And A Commission*

Editorial

★ *Better Court Administration . . .*

by Orie L. Phillips

★ *The Cromwell Library*

by John C. Leary

AMERICAN JUDICATURE SOCIETY • CHICAGO, ILLINOIS

The American Judicature Society

TO PROMOTE THE EFFICIENT ADMINISTRATION OF JUSTICE

Founded in 1913 by Herbert Lincoln Harley

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Journal of The American JUDICATURE *Society*

Vol. 39, No. 1

June, 1955

GLENN R. WINTERS, *Editor*

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A Conference and a Commission

WITHIN recent weeks important recommendations have been made by two distinguished groups of legal scholars looking toward the improvement of the administration of justice within the executive branch of the federal government. The first was the Conference on Administrative Procedure called by the President of the United States on April 29, 1953. Comprised of 75 representatives of federal administrative agencies, federal courts and the bar, assisted by 28 consultants, this Conference held its organization meeting just two years ago this month, and it and its ten committees have done a tremendous amount of work since then. Its report and recommendations were submitted to President Eisenhower in March of this year.

Meanwhile, the Commission on Organization of the Executive Branch of the Government, under the chairmanship of Former President Herbert Hoover, set up in February, 1954, a task force of distinguished members of the legal profession to report on legal services and producedures. This body reported to the Commission in February, and the Commission issued its own report to Congress in April.

The area of inquiry of the Hoover Commission was broader than that of the President's Conference, which was by its very title limited to administrative procedure. Mr. Hoover told his task force that it was "free to undertake investigations and make recommendations on any subject in the legal field, as

far as the executive branch of the government is concerned." Nevertheless, there is a considerable amount of overlapping between the two. The Hoover Commission task force report is in three parts dealing with legal services, legal procedure and legal representation, respectively. The second of these, legal procedures, together with related drafts of recommended legislation and comments thereon, takes up 239 pages, or more than half of the 442-page report, and it is entirely concerned with administrative procedure. There may be those whose first reaction was to wonder if the existence of these two bodies simultaneously pursuing studies so similar in nature and purpose, was not itself a prime example of the sort of duplication of effort that the commissioners were seeking to uncover and eliminate. We think, however, it was all to the good. To the extent that their recommendations coincide, the force behind them is proportionately greater and the compulsion toward their enactment correspondingly increased. Where they differ, there is the benefit of more thorough analysis and additional viewpoints which should help Congress and the other authorities involved to make more intelligent and wise decisions.

The most conspicuous recommendation of either group was that of the Hoover Commission for establishment of a new court — the Administration Court of the United States. This new court would include as one of its sections the present Tax Court of the United States, and it would also have a Trade Section and a Labor Section, the latter to take over the jurisdiction of the National Labor Relations Board in cases involving unfair labor practices.

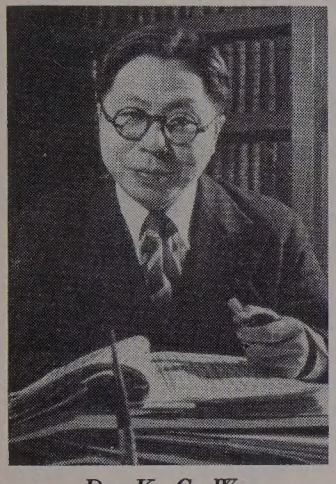
Both bodies propose establishment of a new and permanent agency within the Department of Justice to make a continuing study of administrative procedure. The President's Conference calls it an Office of Administrative Procedure, and proposes that it carry on continuous studies of agency procedures, encourage adoption by the agencies of uniform rules, collect and publish facts and statistics concerning agency procedures, and assist the agencies and the Conference in procedural improvements. The Hoover Commission calls it the Office of Legal Services and Procedure, and would have it assist the agencies in simplifying, clarifying and making uniform rules of substance and procedure, insure agency compliance with statutory public information requirements, and receive and investigate complaints regarding agency procedures.

The vital position occupied by the hearing examiners in federal administrative justice is reflected in the generous attention each group gave to that office. The Hoover Commission proposes that they be renamed hearing commissioners, and that they be supervised by a Chief Hearing Commissioner attached to the proposed Administrative Court of the United States. Selection of hearing commissioners would be by appointment of the Chief Hearing Commissioner, with confirmation by a non-partisan advisory committee. The President's Conference recommends a new Bureau of Hearing Examiner Administration within the Civil Service Commission, although a large minority favored vesting the administration of the hearing examiner program in the proposed Office of Administrative Procedure.

We cannot review here the rest of the recommendations of the President's Conference and the Hoover Commission. There are more than a hundred of them, including some made by the Hoover Commission task force but not adopted by the Commission. All of them deserve the careful attention not only of Congress and the other authorities to whom they were directed, but also of the legal profession and the general public. There is no citizen, and certainly no lawyer, whose life is not profoundly affected by what goes on in the huge executive branch of the federal government. A special committee has been appointed by President Loyd Wright of the American Bar Association to study these reports and make recommendations to the House of Delegates or the Board of Governors as soon as possible. Other bar associations should take similar steps.

BROSMAN, WU, SNYDER ARE LUNCHEON SPEAKERS

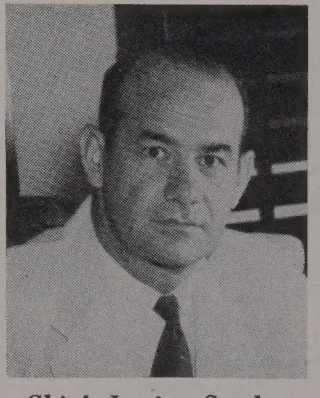
Dr. K. C. Wu, former mayor of Shanghai and governor of Formosa and recognized authority on far eastern affairs, will address the 1955 annual luncheon of the American Judicature Society in the Clover Room of the Bellevue-Stratford, Philadelphia at 12:30 p.m., Thursday, August 25. Dr. Wu was responsible for important improvements during his governorship of Formosa, including far-reaching reforms in the administration of justice, and a discussion of these, along with brief comments on current developments in the Orient, will be the subject of his address. All persons are welcome, whether members of the Society or not, and tickets may be purchased at the A.B.A. convention headquarters. After Dr. Wu's address will be the annual meeting of members of the Society, and, following that, a brief meeting of the board of directors.



Dr. K. C. Wu

The Philadelphia luncheon is one of three scheduled by the American Judicature Society this year. At an American Judicature Society luncheon at the Big Seven Regional Meeting in Cincinnati on June 10, Judge Paul Brosman of the United States Court of Military Appeals described the work of that court and discussed current proposals for improvement of military justice. On Tuesday, November 29, at the Deep South Regional Meeting in New Orleans, Louisiana, Chief Justice A. Cecil Snyder of the Supreme Court of Puerto Rico will describe and discuss the recent important judicial reforms of that commonwealth. Cuthbert S. Baldwin, 1108 Richards Building, New Orleans, is general chairman of the meeting.

Judge Brosman



Chief Justice Snyder

THE CHALLENGE TO YOUTH

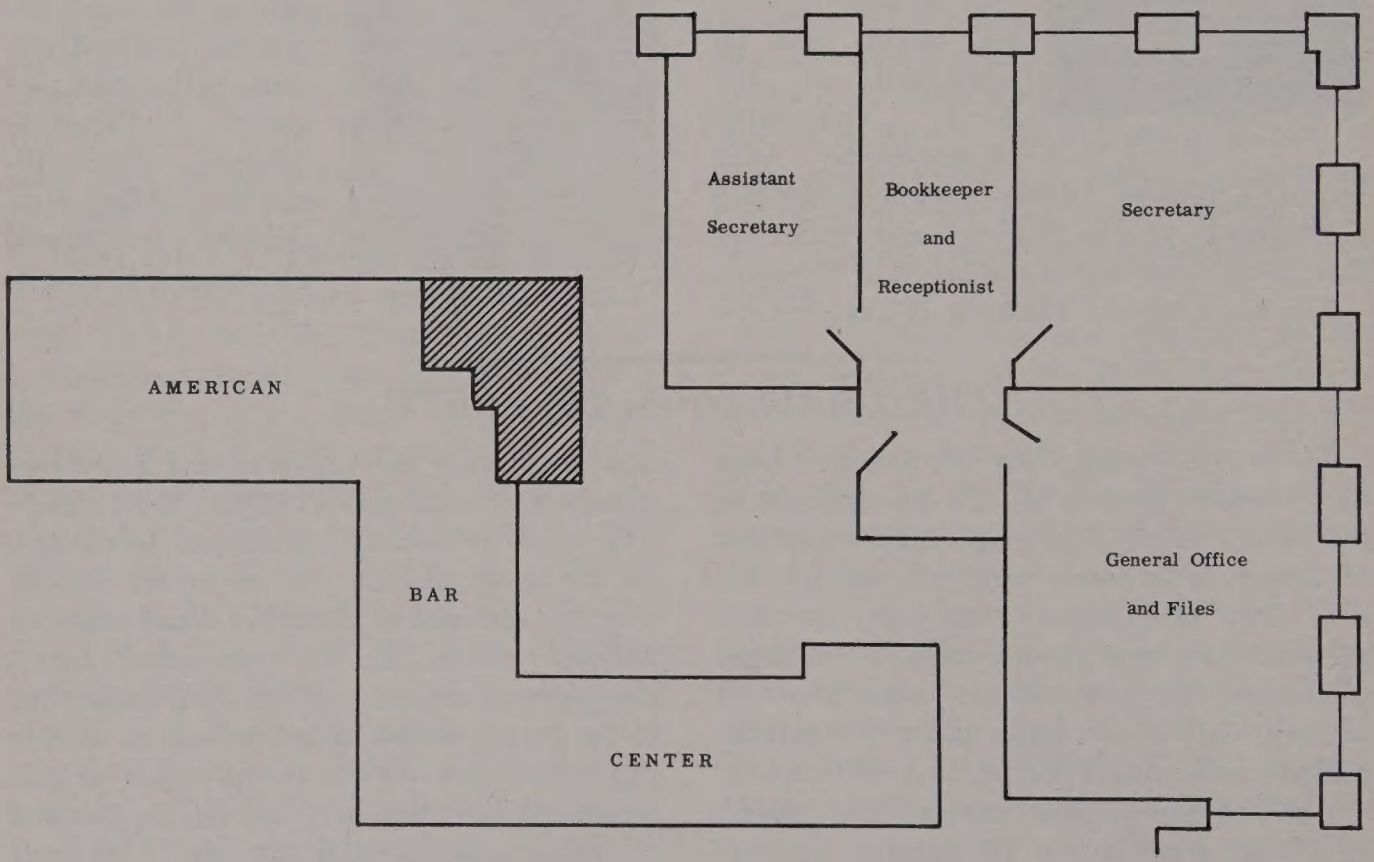
A new graduating class has emerged from the training ground of 157 law schools in the United States. More than 8,500 recipients of law degrees will begin preparation for state bar examinations and for eventual placement in their chosen niche in the legal profession. Of this number, more than 80 percent will enter some phase of private practice and almost 10 percent will answer the call of government service. The choice of a legal specialty, or the absence thereof, is a vital decision, but of paramount importance is the lawyer's duty to society and his profession.

The law is a dynamic, progressive area of learning which depends on the ability of its representatives to reflect the needs of society and to protect the rights of the individual members of society in satisfying those needs. The needs of society are subject to change. As the needs change, the law must change. The bar association, whether local, state or national, serves as the spokesman for a geographical segment of the legal profession. If the young lawyer is not willing or able to participate actively in the program of the organized bar, the bar will fail in its goal of representation, and the neophyte will have renounced his duty to his profession. The exchange of the fruits of experience with the unique approach of a new generation will produce a salutary effect on the legal profession. The challenge to youth is the challenge of progress.

THE AMERICAN BAR CENTER in which the new offices are located. This is a view of the front entrance. The building is situated at 1155 East Sixtieth Street, facing northward toward the Midway and the University of Chicago campus. The four windows on the top floor at the upper left are those of the Society's offices. Another view of the building, from the east, was published in The Journal last August.

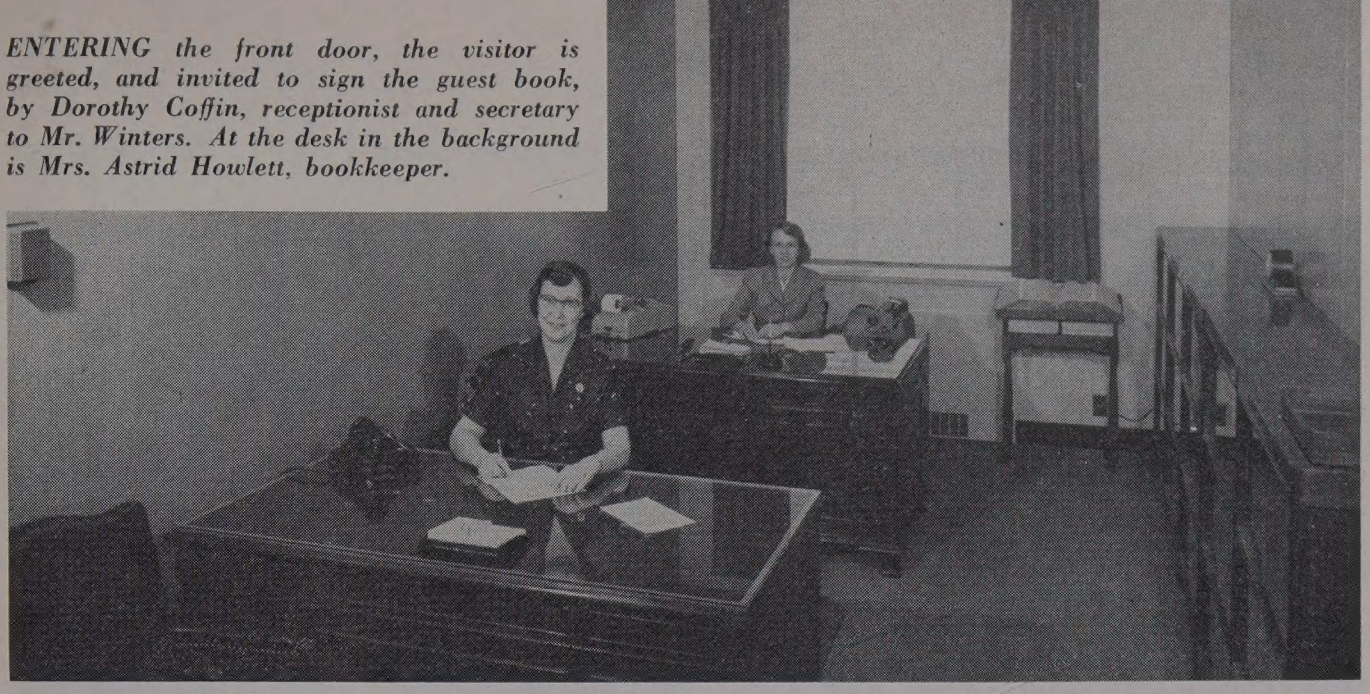
Picture Tour of Society's New Offices

MANY VISITORS have inspected the new offices of the American Judicature Society since the big van unloaded files and equipment from the Ann Arbor offices last October 19. Others would like to, but so far have not had occasion to be in Chicago. They and all the rest of our members and friends are cordially invited to come in whenever they can. In the meantime, THE JOURNAL this month presents a pictorial tour of the new quarters and an introduction to the staff.

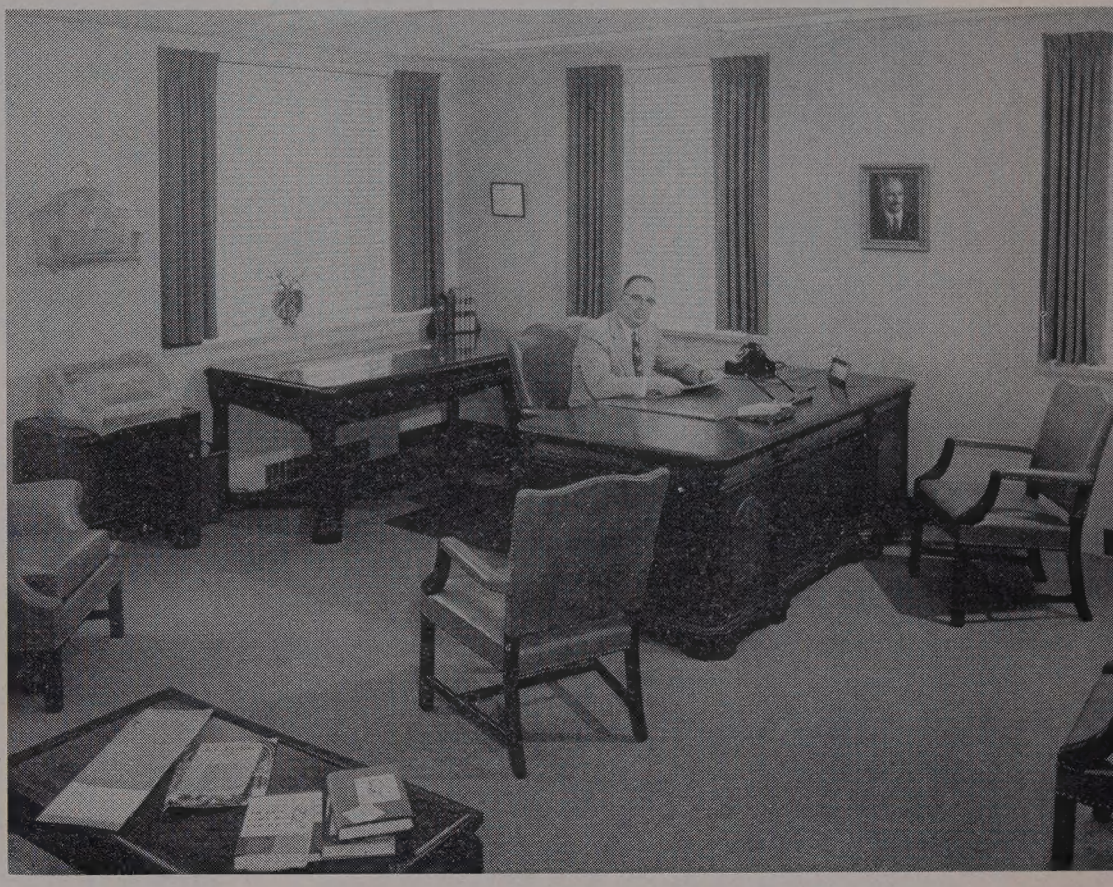


FLOOR PLAN. On the left is an outline of the entire building, with the third floor area occupied by the American Judicature Society shaded. On the right is a detailed diagram of the shaded area, showing the arrangement of offices in the Society's suite. In the upper right-hand corner, the northeast corner of the building, is the secretary's office. Below it, to the south, is the general office and file room. To the left, or west, of the secretary's office is that of the receptionist and bookkeeper, and to the left of that is the assistant secretary's office.

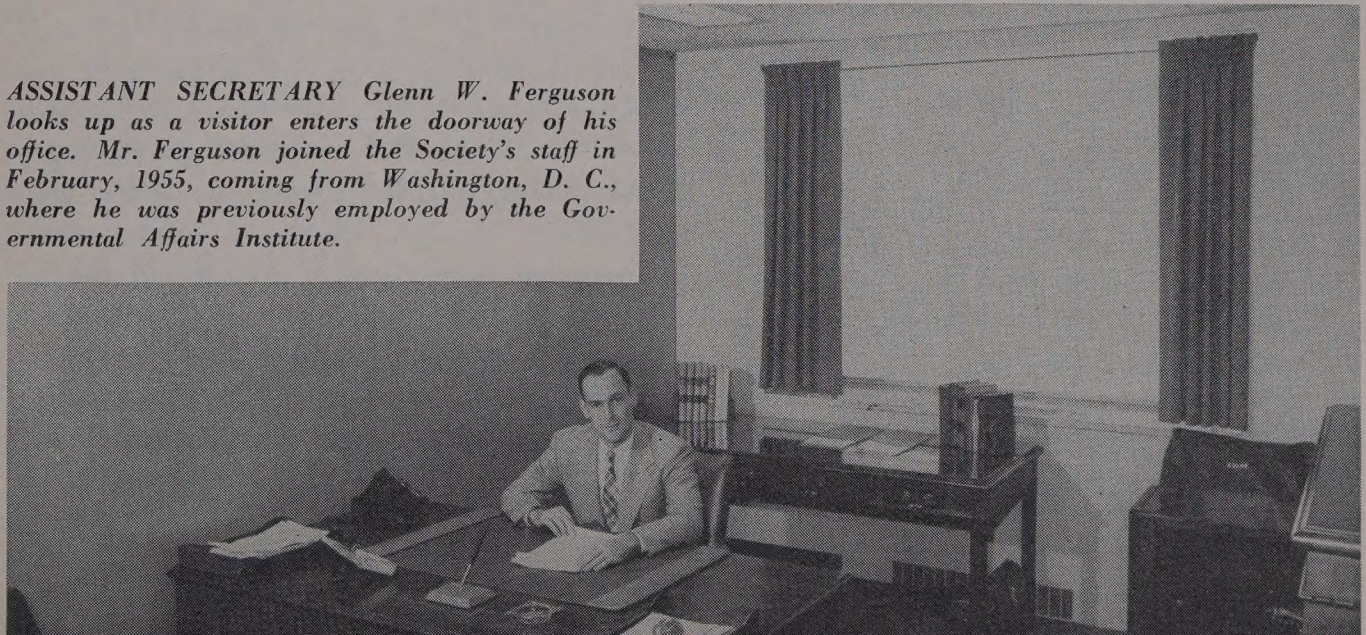
ENTERING the front door, the visitor is greeted, and invited to sign the guest book, by Dorothy Coffin, receptionist and secretary to Mr. Winters. At the desk in the background is Mrs. Astrid Howlett, bookkeeper.



SECRETARY - TREASURER Glenn R. Winters sits at his desk. On the wall at the upper right is a photograph of Herbert Harley, founder and former secretary of the Society, who died in 1951.



ASSISTANT SECRETARY Glenn W. Ferguson looks up as a visitor enters the doorway of his office. Mr. Ferguson joined the Society's staff in February, 1955, coming from Washington, D. C., where he was previously employed by the Governmental Affairs Institute.



IN THE GENERAL OFFICE, left to right, Mrs. Eleanor Stern checks a list of new members, Mrs. Trudy Suderow types a letter, and Mrs. Jane Johnston looks up something in a recent issue of The Journal. On the right are Journal files back to the first issue of June, 1917. On the shelves at the far end of the room are books, pamphlets and miscellaneous literature for distribution. Behind the camera, along the north wall of the room, are cards and stationery files containing mailing list, membership, and other files and records.

BURDENS OF MOVING and getting settled were lightened by the splendid assistance of a number of firms and individuals. The moving itself was done by Stevens Van lines, 121 S. Niagara Street, Saginaw, Michigan, under the supervision of their genial and very competent driver, Roy Hewitt. Our room arrangement was laid out for us by Mr. Joseph W. Ryba of Holabrid and Root and Burgee, the Chicago architectural firm which designed the building. The offices of secretary, assistant secretary and receptionist are furnished with walnut furniture manufactured by Stow and Davis, Grand Rapids, Michigan, and installed by Office Equipment Company, 201 West Monroe Street, Chicago, under the personal planning and direction of Mr. George L. Wucher. The soft gray Gropoint carpeting was installed by the Oscar L. Paris Company, 230 West Monroe Street, Chicago. Desks and files in the large office were manufactured by Steelcase, Inc., of Grand Rapids, Michigan, and installed by Spak and Natovich, Inc., 30 South Wells Street, Chicago. The shelving for JOURNAL files was tailor-made to fit the materials to be filed and the space available for them by the Central Office Equipment Company, 20 West Hubbard Street, Chicago, under the direction of Mr. Abe Lipson. On the walls of the secretary's office which are not shown in the photograph is a group of water color paintings by Mr. Emery A. Brownell of Rochester, New York, a director of the Society. The Society and its staff gladly acknowledge the contributions of these firms and individuals to the beauty, comfort, convenience and utility of the new offices and furnishings.

Better Court Administration . . . A Challenge to the Bench and Bar

By ORIE L. PHILLIPS

BECAUSE of the tremendous upsurge during the last decade in the work of the federal courts, I have become deeply concerned about weaknesses that have become manifest in court administration and the need for competent and efficient administrative management in the federal district courts, if we are to keep abreast of our dockets. While there has been substantial increase in the number of federal judges, that increase is not commensurate with the increase in the work of the federal district courts. However, more judges is not the whole answer. Improvement in administrative techniques is urgently needed.

My experience at the bar and on the bench has largely had to do with courts of one, two or three judges and most of my experience has been in the federal courts, first, as a United States district judge, and later as the Chief Judge of the Court of Appeals for the Tenth Circuit. I have had little experience in courts in the great metropolitan areas.

Efficient and competent court administration cannot be accomplished by the efforts alone of individual judges. An important basic requirement is an integrated and coordinated judicial system, in which each judge has and feels a responsibility for the accomplishments of the judicial system as a whole.

There was a time when a federal district judge was inclined to the notion that he was monarch of all he surveyed in his own district and when he felt little responsibility for work in other courts in the federal system. Illustrative of what I mean is the story told of the conversation which took place some years ago between two federal judges of adjoining districts. One met the other and inquired of him, "Judge, what are you going to do today?" The reply was, "None of your .... business, and if I had not known you for thirty years, I would not have told you that much."

Only under a plan by which trial judges can be assigned to other courts and the judicial manpower distributed to meet the needs of the several courts throughout the judicial system and under which each judge feels a

ORIE L. PHILLIPS is Chief Judge of the United States Court of Appeals for the Tenth Circuit, Denver, Colorado. A vice-president of the American Judicature Society, he is co-author of the recent book "Conduct of Judges and Lawyers." This article is the substance of an address delivered by Judge Phillips at the Pacific Southwest Regional Meeting of the American Bar Association in Phoenix, Arizona, a few weeks ago.

responsibility for prompt and competent administration of justice in all the courts in a state or a circuit can we hope to relieve congestion in particular courts and effect that expeditious administration of justice which the court should afford litigants.

But no system or plan will work without an administrative head to guide it.

In his recent article on "Essentials of a Modern State Judicial System" Judge Laurance M. Hyde of the supreme court of Missouri said:

> " . . . Our courts should no longer be handicapped in efforts to maintain public respect for the law by being forced to attempt to keep up with the pace of modern business and industry without the organization and facilities necessary to do so."

Chief Justice Vanderbilt of the Supreme Court of New Jersey recently said: "So far as I know, the courts are the only nationwide or statewide businesses that have ever attempted to function without any administrative machinery." He stated that one chance for administrative improvement lies in the assignment of judges and that "It is intolerably bad business administration to have some judges overworked while others sit by half idle." He suggests that the appropriate administrative head is the Chief Justice of the state and in the federal system the Chief Justice of the United States and the Chief Judge of each of the several courts of appeals.

I have served as the Chief Judge in my circuit for approximately 15 years. I earnestly endeavor to keep advised of the state of business in the several districts in my circuit; of the districts where dockets are falling in arrears and of the judges who can conveniently render assistance in districts other than their own.

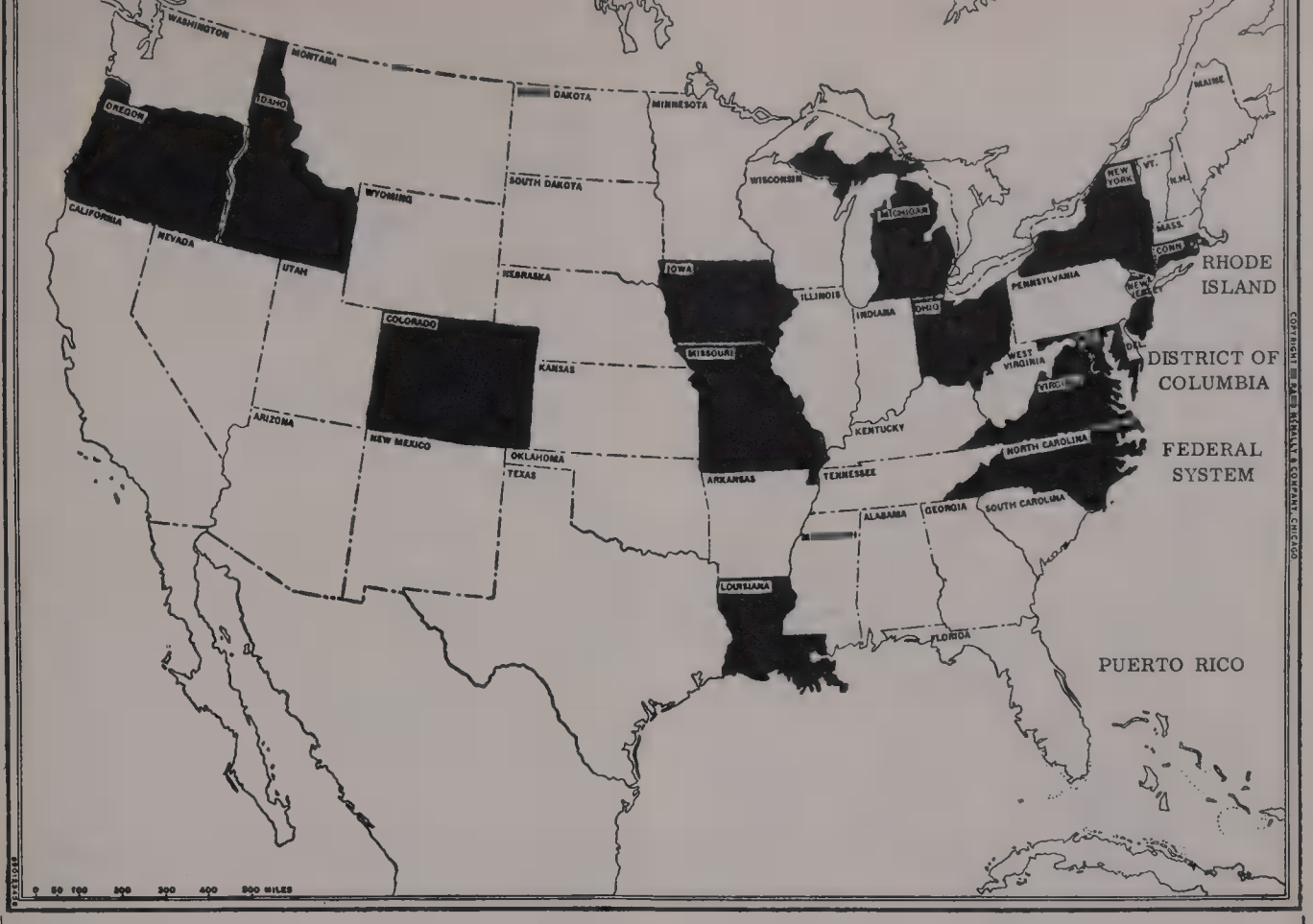
I have also endeavored to build up in the Tenth Circuit a feeling of responsibility among all the judges for the work, not only in their own districts, but in all the districts of the circuit, and a spirit of willing cooperation among all the judges. In these efforts I have had some measure of success.

However, I am convinced that if a Chief Justice or a Chief Judge is effectively to discharge the responsibility of guiding administrative techniques in his circuit, he must have full time professional help. We have that now in the Administrative Office of the United States Courts for the entire federal judicial system and it functions well with respect to assignment of judges from one circuit to render assistance in another circuit, but it affords little aid to the Chief Judge within his own circuit.

Early as Chief Judge of my circuit I established a system of periodical reports from the judges. Such reports include matters disposed of, matters taken under advisement, the time that cases are held under advisement and the state of their dockets with respect to new filings, dispositions and pending cases. The results have been most gratifying. As an example of the results thus obtained, cases are no longer held under advisement in my circuit for inordinate periods of time, usually for not longer than 30 days.

Elements of the New Jersey System

Chief Justice Vanderbilt requires weekly reports from every New Jersey judge, listing hours spent on the bench, cases and motions heard and decisions reached. He has the aid of a competent administrative assistant. Chief Justice Vanderbilt says the effect on indolent judges when their laziness is exposed is truly remarkable. Well, I do not have any lazy judges in my circuit, but I can assure you the effect of these reports has been truly remarkable. While the federal statutes on assignment of judges perhaps give me authority to direct a judge to accept an assignment in another district, I have never yet given such direction. My practice is to communicate with the judge who I feel is in a position to render assistance in another district and ask him if he can conveniently accept an assignment. I make it a practice sometime in advance of the beginning of the court sessions in the fall, which, in my circuit, commence in September, to make inquiry of those judges who I think can render assist-



COURT ADMINISTRATIVE OFFICES IN 1955

JURISDICTIONS having a court administrative office of the type advocated by Judge Orie L. Phillips in the accompanying article are shown in black on the map above. The Supreme Court of COLORADO established the position of Deputy Clerk in 1953, and R. B. Hoffmeister is the incumbent. CONNECTICUT was the pioneer, setting up in 1937 the office of Executive Secretary of the Judicial Department, which has been held ever since by Edward C. Fisher. Joseph Paull is Administrative Assistant to the Chief Judge of the United States District Court for the DISTRICT OF COLUMBIA, a position established about two years ago. In the same city is the Administrative Office of the United States Courts, founded in 1939 and headed by Henry P. Chandler, serving the far-flung FEDERAL court system. In 1949 the Supreme Court of IDAHO designated one of its judges as "co-ordinator" of the courts of that state. A position of "statistician" of the Supreme Court of Iowa, to aid in the administrative function, is created in an act of the IOWA legislature this year. Just about a year ago the Supreme Court of LOUISIANA appointed George W. Pugh as its Judicial Administrator. Frederick W. Invernizzi already has been appointed head of the Administrative Office for the courts of MARYLAND created this year by act of the legislature. Meredith H. Doyle has been Court Administrator in MICHIGAN since establishment of that office by legislative act in 1952. John M. Holmes, Executive Secretary of the Judicial Conference of Missouri, has served a similar function for many years. The judicial section of the 1948 constitution of NEW JERSEY provided for the office of Administrative Director, first held by Willard G. Woelper and now by Edward B. McConnell. The first major legislation enacted at the behest of the NEW YORK Temporary Commission on the Courts was an act a few weeks ago creating a Judicial Conference with a State Administrator. Several years ago John M. Strong, NORTH CAROLINA Supreme Court Reporter, was given the additional title and responsibility of Administrative Assistant to the Chief Justice. The same title is used in the bill passed last month by the OHIO legislature, and in OREGON where Jonel C. Hill has held the office since 1953. The 1952 PUERTO RICO constitution provides for an Office of Court Administration under an Administrative Director appointed by the Chief Justice. Judge Federico Tilen held this post until about one year ago when he was succeeded by Lucas F. Serbia Cordova. Robert A. Coogan is Administrative Clerk of the Superior Court of Rhode Island, a position established in 1952. In that same year the VIRGINIA legislature created the position of Executive Secretary of the Supreme Court, now held by Hubert D. Bennett. Last August 14 and 15 a dozen of these men met for a two-day conference at the time of the American Bar Association convention, and similar conferences are planned for 1955 and future years.

ance in other districts and ask them to advise me of the time they feel they can conveniently give in our districts and the times that would probably be most convenient for them to accept assignments. I have never as yet asked a judge to accept an assignment in a district where help is needed, because of crowded dockets or the illness of the local judge, who did not readily agree to accept the assignment and render the assistance, unless there was a very compelling reason for his not doing so. The cooperation of the judges in my circuit has been most gratifying.

But this administrative responsibility, in addition to my judicial duties, has imposed a heavy burden which has probably impaired the quality of my work in both areas. I agree with Justice Vanderbilt that a Chief Justice or a Chief Judge needs full time professional help in discharging his responsibility with respect to court administration. Only thirteen states and the District of Columbia now have offices of judicial administration. Every state should have such an office and I think the Chief Judge in every circuit should have the aid of a competent administrative assistant.

Defects in Court Administration

One of the defects in court administration is the inefficient management of dockets and the assignment of cases for trial by particular judges within a multiple-judge district. Management techniques should be worked out whereby, if a case is settled on the eve of trial, another case can be promptly assigned to the judge, so that he will not sit around idle until the time for trial of the next case on his calendar.

Another defect develops in the setting of a trial docket for an assigned judge. If the docket falls down and he is only half busy, he goes home disgusted. Efficient court management requires that the court know in advance whether the cases are likely to come on for trial or likely to be settled, and the trial calendar of the assigned judge should be so arranged that there will be a constant flow of cases ready for trial.

An efficient use of pre-trial procedure is both desirable and necessary, first, because such technique simplifies the issues and avoids much unnecessary waste of time in the trial of cases. Parenthetically, may I say it ends the sporting theory in a trial. I believe that that theory should be ended. A trial should not be like a game of stud poker, in which each side has a buried hole card. Moreover, an experienced trial judge knows pretty well at the end of a pre-trial whether a case is likely to be settled and how long it will take to try cases which will come on for trial. If a reasonable period, not too long, intervenes between the pre-trial conference and the time of trial, most of the cases that are to be compromised will be disposed of before the beginning of the trial calendar. Thus, the pre-trial conference will enable the judge to set his docket intelligently and he can avoid having jurors sitting around unoccupied and avoid having parties, counsel and witnesses waiting a long time for their case to be reached.

Another helpful device in a multiple-judge court is to have a single jury pool from which the several judges engaged in jury trials will draw juries for individual cases. This results in a more effective use of jury panels, keeps the jurors more fully occupied and saves much expense.

Chief Justice Vanderbilt suggests we should have three main objectives in our efforts to improve the administration of justice:

1. Improving the quality of judges;
2. Simplification of procedures;
3. Cutting delay by better management.

The first will be accomplished if we put into effect better methods of judicial selection. We have made great strides in simplifying judicial procedure. But we have done little in most of the districts to improve administration and effect better management.

We can do much to improve the administration of justice by improving court administration. This presents a great challenge to the bench and bar.

The Cromwell Library in the American Bar Center

By JOHN C. LEARY

IT WOULD have been a reversion to what is called the Saratoga era of the American Bar Association had the House of Delegates at the 1951 Mid-Winter meeting decided that Salisbury House in Des Moines, Iowa, be purchased as the new headquarters building. But the Committee's recommendation that it be not purchased was adopted by the House,[1] the delegates demonstrating a conviction that this association of lawyers of the United States, with stated objectives, among others, "to advance the science of jurisprudence, to promote the administration of justice," would not feel at home in this copy of a residence in Salisbury, England. Certainly, the general atmosphere of Salisbury House would not have permitted the descriptive phrase "the catalyst of the legal profession" as used by Chief Justice Warren in his speech at the dedication of the American Bar Center.[2]

Modern in style, in an accessible location, with stimulating surroundings, the American Bar Center is an efficiently designed headquarters for the American Bar Association and its activities, and the Research Center is an answer on the part of the American Bar Association itself to the plaintive statement by the then professor at Northwestern Law School, Roscoe Pound, that "No one is studying seriously or scientifically how to make our huge output of legislation effective. There are no endowments for juridical research. There are no laboratories dedicated to legal science whose bulletins shall make it possible for the scholar to obtain authoritative data and for the lay public to reach sound conclusions."[3]

But I wish to speak of the Cromwell Library and its relationship to the research activities in the Bar Center, of its role and of its collection, as planned. Significant, in and of itself, would have been the decision to establish a library for the American Bar Association. The Association's awareness of the law library problem was demonstrated by its provision that the Survey of the Legal Profession should include a survey of the libraries used by lawyers. The Roalfe report, *Libraries of the Legal Profession*,[4] gave the results of this survey. In his discussion of the American Bar Association, Roalfe urged it to include a library in its planned new headquarters and critically described the status of A.B.A. publications as being difficult to obtain and stated that there did not exist anywhere in the country a complete collec-

JOHN C. LEARY was assistant professor and law librarian at Stanford University Law School before assuming his new duties as librarian of the Cromwell Library in the American Bar Center last January.

tion of all of the A.B.A. publications, nor even a complete record of what had been published by the Association.[5] And I will add one remark of my own, that they had not been cumulatively indexed.

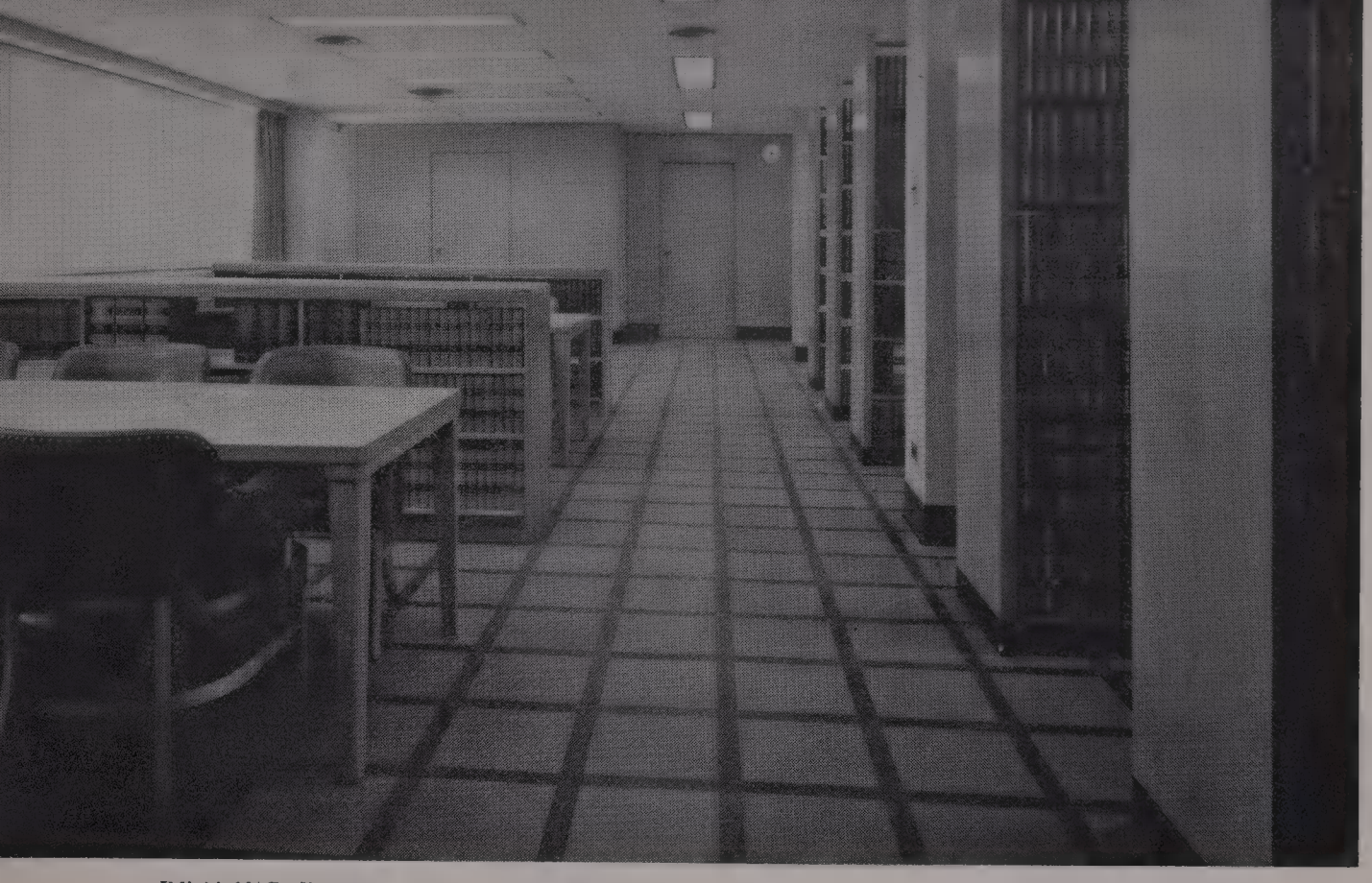
The situation is better today. The Research Center contains a library. A Checklist of the Publications of the Sections of the American Bar Association has been published in 44 *Law Library Journal* 322 (1951) and supplemented in 46 *Law Library Journal* 53 (1953). This was prepared by Erwin C. Surrency, Law Librarian at Temple University. In 1954 the Board of Governors approved the "Package Plan" whereby interested law libraries could subscribe to nineteen serial publications of the American Bar Association. As to those published prior to 1954, the Board of Directors of the American Bar Foundation has on the agenda for its next meeting a proposal that the American Association of Law Libraries' Committee to Cooperate with the American Bar Association and the American Bar Foundation jointly sponsor the republication in microcard form of the Section and Committee Reports issued prior to 1954, the year the package plan was adopted. One part of the reading room stacks in the Cromwell Library will properly be reserved for the publications of the American Bar Association and I am under direction of the Research and Library Committee to assemble all of them here. Complete listing will be maintained and published as soon as possible. Cumulative indexing will be the final task and must, of course, be deferred until the library contains all of them in as complete a fashion as possible.

The library will also contain the publications of state and local bar associations in the United States. The extent of the problem here is suggested by the fact that there are approximately fifteen hundred bar associations now active in the United States and that a good many of these publish regularly. For a number of years all of the active state bar associations published the proceedings of their annual meetings in bound volumes. Recently, however, the tendency has been to shift to a periodical form of publication, and the interest shown by bar associations in public relations has added yet a different type of bar publication which must be considered for possible inclusion in the collection. And the impetus has not stopped here. Developments in the field of continuing education of the bar have produced another, a monograph type of bar publication, familiar ones being those of the Practising Law Institute and the Committee on Continuing Education of the American Law Institute in collaboration with the American Bar Association. The California Practice Handbooks may be cited as an example of a state bar's activity along this line.[6] Service publications such as the recent volume of corporate forms sponsored by the Indiana Bar Foundation will, of course, be added.[7]

The Research and Library Committee realizes that a number of older national, state and local bar association publications will be out of print and difficult to obtain and undoubtedly expensive if rare in their original printed form. To complete our own collection and to assist other law libraries who might be similarly interested in obtaining these early bar association publications, we intend to make use of microfilming and microcarding procedures, and we hope to make an early announcement of our initial activities in this field.

The task will not stop, however, with the collection of these books and periodicals in the Cromwell Library. The adequate indexing of these books has long presented problems. While a comprehensive index of the

1. 76 ABA Rpt. 541 (1951).
2. 40 ABA Jour. 956 (1954).
3. 31 ABA Rpt. 914 (1907).
4. Roalfe, Libraries of the Legal Profession (1953).
5. Roalfe, at 418.
6. Three have been published to date: California University Extension. California Practice Handbook (#1) Medical Aspects of Personal Injury Litigation (1953); (#2) Organizing and Advising Small Busines Enterprises (1954); (#3) Practical Aspects of Probating Estates (1955).
7. Indiana Bar Foundation. Committee on Corporate Procedures. Indiana Corporate Procedures (1954).



READING ROOM of the Cromwell Library as seen from the entrance. The books on the right are part of the "working law library." Inside the door at the far left is the librarian's office, and across the hall from it on the right is a workroom and site of the micro reproduction equipment. Half of the floor above is devoted to bookshelves and the rest to conference rooms.

state bar publications was published in 1942,[8] and while some bar periodicals are currently being indexed in the *Index to Legal Periodicals,* it may be possible in the future to work out wider coverage in the *Index* or a separate publication of the Dooley type which will bring the indexing done here up to date.

The various research projects which will be located at the American Bar Center will each undoubtedly require a very extensive coverage in the particular subject area with which the project is concerned. The project on Citizenship Education requires a great number of titles in the field of constitutional law and legal history. The people working on the Canons of Professional Ethics project, in turn, will need to have available all of the literature on this subject. This will include a portion of the state and local bar material which we plan to have in our permanent collection as just described above, the published opinions of the several Committees on Professional Ethics. But, it is not our intention to duplicate any of the large scholarly libraries in the Chicago area or elsewhere in the country. The presently available stack space is rather limited and we plan to avail ourselves of the cooperative and friendly attitude of the law and other libraries in the Chicago area through interlibrary loan and other usage of their collections, thus avoiding any major library investment by the American Bar Foundation.

We do have and will maintain what might be called a "working law library" in the reading room. The several major law book and loose-leaf publishers in the country have been very generous and have assisted in the establishment and initial period maintenance of these basic standard sets of reports, codes, loose-leafs and treatises.

In summary, the Cromwell Library holdings will consist of three broad groups, the working law library, the materials needed for the research projects, and bar publications, including books about lawyers and the legal profession. The collection will be unique in the coverage given to bar publications, and we trust that in its distinctiveness in this regard and in its service features the library will be of assistance in helping the American Bar Center attain its role of "catalyst for our entire profession."

8. Index to State Bar Association Reports and Proceedings (Dooley, ed. 1942).

Judicial Administration in the Legislatures

Judicial Article Defeated in Illinois

In spite of the avowed support of Governor Stratton and Mayor Daley of Chicago, the 1955 version of the Judicial Article was defeated in the recent session of the ILLINOIS legislature. The carefully prepared amendment proposal was a revision by the Joint Committee of the Illinois State Bar Association and the Chicago Bar Association of a similar proposal which was defeated in 1953. The 1953 Judicial Amendment was endorsed by all of the members of the Illinois Supreme Court and was widely acclaimed by such eminent legal scholars as Dean Roscoe Pound and Dean Albert J. Harno, President of the American Judicature Society, and by such outstanding jurists as Judge Harold R. Medina of New York, Chief Justice Arthur T. Vanderbilt of New Jersey and Judge Laurance M. Hyde of the Supreme Court of Missouri. The 1955 revision sought to avoid the most controversial aspects of the 1953 draft which dealt with the selection of judges. It provided that the present elective system should be continued but should be subject to change by legislative act followed by an automatic referendum in 1958. The referendum would determine whether nomination for office by judicial nominating commissions would be authorized.

In addition to the provision pertaining to the selection of judges, the proposed amendment would have conferred general administrative power on and limited original jurisdiction of the supreme court, provided 10-year terms for supreme court and appellate court judges and 6-year terms for circuit court judges, required all judges and magistrates to be lawyers, permitted suspension or removal for cause and retirement for age or disability and created a uniform type of trial court and a single clear channel for appeals.

Leaders of both parties had earlier declared approval of the proposed reorganization of the courts. After the proposal was referred to the House Executive Committee, an amendment was adopted which would have granted the legislature unlimited power to create new courts and to define their jurisdiction. This amendment was opposed by the local and state bar associations on the ground that its adoption would severely handicap all phases of the soundly conceived judicial reform.

On June 23, the judicial article was debated in the House chamber of the imposing capitol building pictured above. The sponsor of the amendment opposed by the bar associations moved that the measure be tabled, and the motion carried by a 74 to 70 vote. With more than 900 positions available for patronage in the Chicago Municipal Court alone, 62 Democratic members of the House were moved to support the tabling proposal. Twelve Republicans supported the motion which in effect kills judicial reform in Illinois for another two years. The bar associations, however, plan to return in full force for the next session, and a spokesman has issued the following caveat to opponents of judicial reform in Illinois: "We expect to lose all of the battles but the last."

Other Court Administration Proposals

Bills have been introduced in Congress to establish new federal judgeships in ARIZONA, CALIFORNIA, IOWA, KANSAS, MICHIGAN, MISSISSIPPI, OHIO and PENNSYLVANIA. Another federal bill would make temporary judgeships permanent for the districts in NEVADA, NEW MEXICO, SOUTH DAKOTA and PENNSYL-

VANIA. At the same time, Congress passed a bill authorizing the House Committee on the Judiciary to conduct a complete investigation and study of the judicial proceedings and the administration of the federal courts. CONNECTICUT rejected a proposal to create a district court system to replace the present minor court system and approved a bill which provides for the appointment of six new superior court judges. In DELAWARE, bills have been introduced which would give the state supreme court administrative and supervisory power over all state courts; create a council on the administration of justice; permit the state superior court to appoint administrative assistants; and make minor changes clarifying and simplifying the laws governing the courts. A proposal to create a separate family court for the DISTRICT OF COLUMBIA was rejected by a District subcommittee of the U. S. Senate.

The FLORIDA legislature has adopted resolutions for constitutional amendment providing for the creation of three district courts of appeal. These courts will serve as intermediate appellate courts and will be similar to the intermediate courts of New York, Alabama, Illinois and several other states.

The General Assembly of IOWA has adopted a bill to create the position of "statistician" in the office of the clerk of the supreme court. The statistician will have the authority to appoint assistants and to set up a modern administrative office for Iowa courts. Defeated in the MARYLAND legislature were bills that would have consolidated the Supreme Bench of Baltimore and replaced its traffic and police courts with a single municipal court. The MASSACHUSETTS law-makers are considering a proposal to provide for 47 full-time judges in 42 district courts.

With more success than its counterpart in Illinois, the MINNESOTA State Bar Association successfully sponsored a new judicial article which was adopted by the legislature. The proposed amendment will be submitted to the voters for approval at the general election to be held in November, 1956. It will provide for a uniform term of office of six years for all judges; require supreme court, district court and probate court judges to be trained in the law; authorize the legislature to prescribe requirements as to legal training for other judicial offices; make provision for the use of retired judges; create new courts by a majority vote rather than a two-thirds vote of the legislature; make the clerk of the supreme court an appointive office and eliminate the office of justice of the peace.

The NEW JERSEY lawmakers approved bills aimed at easing congestion of pending legislation in the law division of the county and superior courts. One bill will transfer civil cases from the superior and county courts to the district courts and another will authorize the district courts to handle cases originating in the higher courts.

The first of four judicial reform proposals sponsored by the OHIO State Bar Association has passed the legislature. The bill will provide for an administrative assistant for the Supreme Court of Ohio. (Other provisions of the Ohio Bar's "4-Point" Program are included in the charts dealing with judicial compensation and retirement.) An amendment to the state constitution has been proposed by the RHODE ISLAND legislature which would make the Superior Court of the state a constitutional court which could not be abolished by legislative decree. The TENNESSEE legislature has adopted a proposal which will create a new Chancery Court with probate jurisdiction.

A proposed state constitutional amendment calling for a complete revision of the court system of WISCONSIN has been approved by the Senate and forwarded to the Assembly. Sponsored by the state bar association, the resolution would have to be approved again by the 1957 legislature and by referendum before it would become effective. All courts in the state would be abolished with the exception of the Supreme Court, circuit courts and justice courts. The circuit courts would hear most of the cases not within the jurisdiction of minor courts. In VERMONT, a bill has been introduced to

overhaul the municipal court system of the state.

Judicial Councils—One Win, One Loss, One Draw

Governor Patterson has signed into OREGON law a bill providing for the establishment of a state judicial council. The creation of such a council has been urged by the Oregon State Bar Association. At the same time, the MICHIGAN legislature has abolished the state judicial council and assigned its functions to the state court administrative office. The NEW YORK court administration bill discussed in the previous issue of the Journal has been enacted into law. The measure calls for the creation of a judicial conference of nine judges to replace the present judicial council and to set general standards for the courts. The New York legislation further provides for an administrator to be chosen by the conference to carry out conference policies.

Judicial Selection Proposals Considered By Eight States and the U. S. Congress

Three bills dealing with the selection of judges have been introduced in the UNITED STATES Congress. In the Senate, Senator Butler of Maryland proposed a constitutional amendment limiting the supreme court to nine members and disqualifying them from serving as president or vice-president of the United States within five years after service on the court. Senator Stennis of Mississippi proposed that not less than one of every two persons appointed to the Supreme Court shall have had at least ten years of judicial service in the federal judiciary or as a state judge in the highest court or a court having general jurisdiction. In the House, Representative Rogers of Texas has proposed that all decisions of the Supreme Court be participated in by the full court, vacancies to be filled by temporary appointment of circuit court judges.

The FLORIDA legislature rejected the Missouri Plan for the selection of members of the Supreme Court, and the judiciary committee of the KANSAS Senate rejected a resolution which would have authorized a referendum vote on adopting a non-partisan system for the selection of state supreme court and district court judges.

MICHIGAN voters have adopted a state constitutional amendment requiring circuit court and supreme court judges to be practicing attorneys under 70 when they are appointed or elected to office. In addition, the Michigan electorate has approved an amendment which empowers the legislature to alter the specific judicial nominating procedures enumerated in the state constitution.

Defeated in the MISSOURI House of Representatives was a proposed state constitutional amendment to end the non-partisan plan of selecting judges for appellate courts. Under the terms of the rejected proposal, judicial candidates would have run on a non-partisan ballot in the primary with the two top candidates opposing each other in the general election. In NEW MEXICO, a proposed state constitutional amendment authorizing the non-partisan election of judges has been submitted to the legislature by the Governor. Under the sponsorship of the PENNSYLVANIA State Bar Association, a resolution has been introduced in both houses of the legislature to adopt a plan for the selection of judges which is in substantial conformity with the model plan endorsed by the American Judicature Society and the American Bar Association. A VERMONT proposal would appoint judges for a four-year term with confirmation by the State Senate. Under the present system, Vermont judges are appointed for two years without Senate approval. Reversing a previous action, the WISCONSIN Assembly defeated a bill which would have created a selection commission to fill judicial vacancies.

Alaska Integrated Bar Act Adopted

A comprehensive integrated bar act has been passed by the Territorial House of Representatives of ALASKA. The integrated bar will be governed by a nine-member Board of Governors which will be charged

Judicial Compensation Legislative Summary—1955

Jurisdiction	Highest Appellate Court			Intermediate Appellate Court			Trial Courts of General Jurisdiction			Trial Courts of Limited Jurisdiction		
	Present/ Former	Adopted	Proposed	Present/ Former	Adopted	Proposed	Present/ Former	Adopted	Proposed	Present/ Former	Adopted	Proposed
Federal	$25,000 25,500 CJ	$35,000 35,500 CJ		$17,500	$25,500		$15,000	$22,500				
Arizona	12,000		18,000				10,000		$15,000			
California	19,000 20,500 CJ		24,000 25,000 CJ	18,000		22,500 23,000 CJ	10,000- 16,750		16,000- 19,000	$12,000		$14,500- 17,500
Colorado							9,000		10,000 (General Average)			
Connecticut	15,000 15,500 CJ		19,000[4] 20,000 CJ				15,000		18,500[4]	12,500		15,500[4]
Florida	13,500		17,500									
Georgia							8,400	10,000				
Illinois	20,000		24,000[4]	12,500- 19,500		15,000- 22,000[4]	12,500- 19,500		15,000- 22,000[4]			
Indiana	13,500		17,500									
Iowa	10,000	12,000					8,000	10,000				
Kansas	10,000		13,000 14,000 CJ				7,000		10,000			
Massachusetts										9,900	12,000	
Montana	9,000	11,000					7,500	9,000				
Nebraska	9,100	12,000					7,400	10,000				
Nevada	15,000	16,500										
New Jersey	24,000 25,000 CJ		26,500[1] 27,500 CJ	20,000		22,500[1]				16,000		19,000[1]
New Mexico	12,500		15,000				10.000		12,500			
New York							23,000- 28,000		25,500- 30,500[2]			
Ohio	16,000 16,500 CJ		19,000 20,000 CJ	13,500		17,500	5,300- 16,000		8,300 16,000			
Oregon	12,000	13,500					10,500	11,000		4,000- 5,000	7,000- 8,000	
Pennsylvania	25,000 25,500 CJ		37,500 38,250 CJ	23,000 23,500 PJ		34,500 35,250 PJ	14,000- 18,500		21,000- 27,750			
South Dakota	8,700	10,000					7,200	8,000				
Tennessee	12,000 12,600 CJ	15,000[3] 16,500 CJ		10,000	12,500[3]		7,500	10,000[3]				
Utah	9,000	10,000					7,500	8,000				
Vermont										7,000		8,000
West Virginia	12,500	17,500										

[1]Awaiting Governor's Signature. [2]Defeated. [3]Effective September 1, 1958. [4]Passed Senate.

Judicial Retirement Legislation—1955

State	Minimum Age	Years Service	Amount of Retirement Allowance	Applicable Judges	Legislative Status
Delaware	Voluntary Involuntary	12 21	2% x years served x av. of 5 highest years	All	Introduced
Florida	Voluntary Voluntary Eligible	20 30 10	Full salary Full salary 5% per year up to full salary 3⅓% per year up to full salary	Supreme Circuit Supreme Circuit	Introduced
Iowa	(Resolution directing Governor to appoint commission to study retirement system of judges)				Passed
Montana	70 65	12 16	50%	Supreme and District	Defeated
Nebraska	65 (optional) 70 (compulsory)		65%	Supreme and District	Passed
New Jersey	70	10	75%	County	Introduced
Ohio	60 Additional years	12	25% up to 40%	All	Introduced
Pennsylvania	(Increase pension benefits—now 50% of last salary)				Introduced
Tennessee	(Place retirement system on contributory basis)				Passed
Wisconsin	70 70 (compulsory)	22	50% 50%	County, Circuit and Supreme	Passed

with the executive functions of the Alaska Bar. The Board of Governors will have the power to adopt reasonable rules concerning the enrollment and privileges of membership, providing for other officers of the bar, stipulating annual and special meetings, providing for the organization of municipal and local subdivisions of the bar and defining the practice of law. At the same time, a bill has been introduced in the TEXAS legislature which seeks to abolish the compulsory annual membership fee and which is in effect an anti-integration measure, and the District Court of the VIRGIN ISLANDS is considering a petition to integrate the local bar by rule of court without recourse to an enabling statute.

Other Legislation Pertaining to Lawyers and the Bar

Prominent CALIFORNIA attorneys have defended and denounced proposed state legislation which would permit the disbarment of attorneys taking refuge in the Fifth Amendment. The legislation has been advocated as a means of obtaining greater public trust in lawyers. It has been attacked as threatening to destroy the American principle of the presumption of innocence. In ILLINOIS, bills have been introduced to establish a $25 to $500 fine for the unauthorized practice of law and to impose a tax upon all persons engaged in any occupation in the state at the rate of one per cent of the gross receipts from the "sale of services, accommodations, and amusements furnished in such occupation." Under the definition of "occupation," there are over 100 different businesses or professions listed, including lawyers.

A bill to replace the OKLAHOMA State Bar law with a new statute is being considered by the state legislature. Similar to the Texas law, the bill would call for trial in court of disbarment proceedings against an attorney rather than the present system which authorizes the bar association to conduct all disbarment hearings. In OREGON, a bill was introduced which would call the state bar a state agency subject to certain jurisdictional control including the payment of state tithing. The bill was amended before passage so as to eliminate the state bar.

Procedural Legislation

Attorney General Herbert Brownell, Jr., with the concurrence of Secretary of State John Foster Dulles, has proposed a FEDERAL commission to study international rules of judicial procedure and make recommendations for their improvement. After a major debate, the CONNECTICUT General Assembly rejected a proposal which would have abolished capital punishment. A bill passed by the KANSAS House of Representatives and sent to the State Senate would authorize the supreme court to create a commission to study and rewrite the code of civil procedure and the justice code. If the study is authorized, a report will be submitted to the 1957 session of the legislature. Climaxing a ten-year campaign by lawyers and bankers, a new probate code has been signed into TEXAS law by Governor Shivers. The new code is aimed at simplifying and codifying the state law concerning estates.

Distaff Participation on Juries

A bill to allow women to serve on juries has been introduced in the ALABAMA legislature. In TEXAS, a proposal has been adopted providing certain exemptions from jury service for women. The exemptions will include women whose husbands are practicing lawyers; wives of National Guardsmen on active duty; wives of men summoned for the same jury; women who must care for children under 16; practicing nurses and religious healers. A proposed state constitutional amendment permitting jury service for women was given final approval by the WEST VIRGINIA legislature and will be submitted to the electorate.

The material included in this summary has been derived from legislative bulletins, bar association publications, newspaper articles, reports of judicial councils and correspondence from readers of the Journal. Undoubtedly, legislation has been introduced involving judicial administration of which the editorial staff has not been apprised. To insure that this department will reflect the current status of judicial reform through legislation, please send all legislative information to:

The American Judicature Society
1155 East 60th Street
Chicago 37, Illinois

In NEW YORK, Governor Harriman vetoed a bill which would have barred members of the Communist party from serving on juries. The Governor stated that his veto was based on technicalities. The measure would have amended a section that will disappear from the statute books this year.

Echoes from the Past

(From the Journal of the American Judicature Society, June, 1920)

"Three big factors dominate the discussions before the Judiciary Committee of the Illinois Constitutional Convention, which has been at work for more than four months without definite commitments. These are:

1. To place the rule-making power in the Supreme Court. . . .
2. To unify the six courts now operative in Chicago. . . .
3. To provide some form of appointment for judges sitting in the metropolitan district. A considerable body of lawyers have come to the conclusion that it is not possible for the million voters of Cook county to select their judges by direct vote in an intelligent manner."

"Dedication to Justice" Is New A.B.A. Film

CHIEF JUSTICE WARREN of the United States Supreme Court, as he appears in the film delivering the dedicatory address for the American Bar Center last August 19.

THE THIRD documentary motion picture to be produced in recent years by the organized bar of this country made its appearance on June 1 when a film entitled "Dedication to Justice" was released by the American Bar Association.

The film opens with views of the $2,000,000 American Bar Center in Chicago, new home of the American Bar Association, the American Judicature Society and other national legal organizations, and site of important new legal research activities. There are scenes from the dedication of the building last August, including Chief Justice Earl Warren of the Supreme Court of the United States as he delivered the dedicatory address

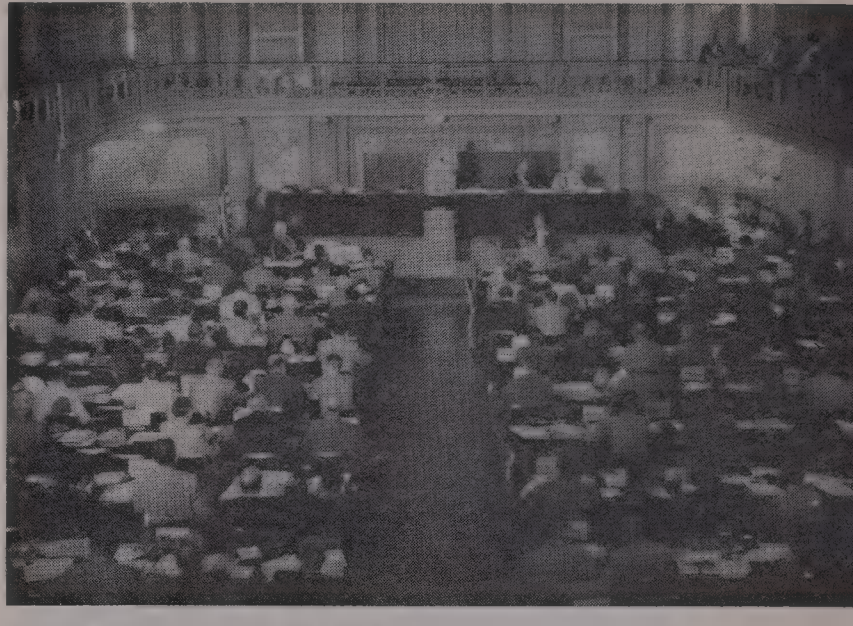
ERIC SEVAREID, popular C.B.S. news commentator, conducts the interviews in "Dedication to Justice."

in the Rockefeller Memorial Chapel of the University of Chicago. It then portrays in a series of interviews the activities of the American Bar Association and the rest of the 1,500-odd national, state and local organizations of the legal profession in the education of lawyers, establishment and maintenance of standards of professional ethics, promotion of legal aid and lawyer referral services, conduct of legal research, and other areas of professional responsibility.

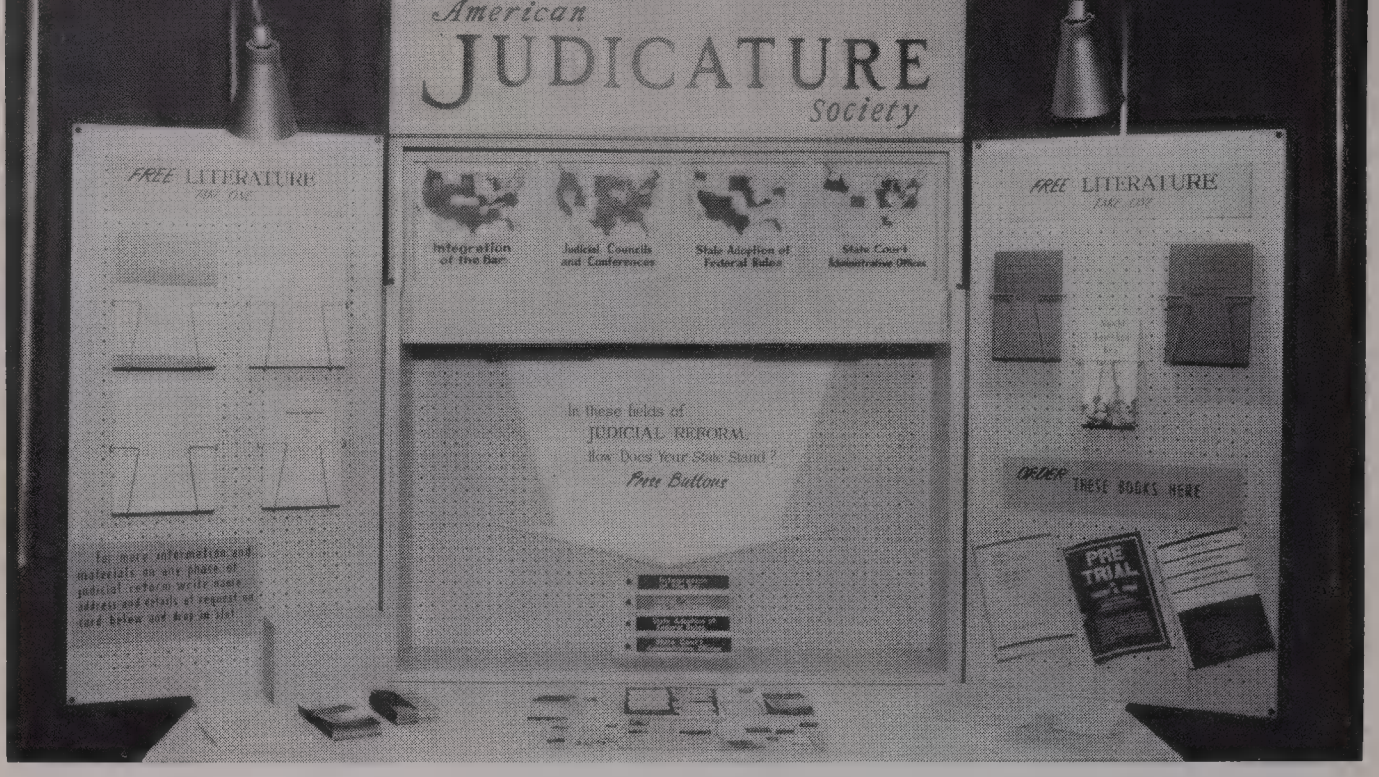
Moderator of the interviews is Eric Sevareid, chief of the Columbia Broadcasting System radio and television news department in Washington. Other personalities appearing in it include Judge Harold R. Medina of the United States Court of Appeals in New York; William J. Jameson, Billings, Mont., former president of the American Bar Association; Dean E. Blythe Stason of the University of Michigan Law School; Robert B. Troutman, Atlanta, Ga., and Cecil E. Burney, Corpus Christi, Texas, former presidents of their respective state bar associations; Richard H. Bowerman, former chairman of the Junior Bar Converence of the American Bar Association; and Mrs. Edward H. Cumpston, of the Rochester, N. Y., Legal Aid Society.

The film is 34 minutes in length, 16 millimeters, with sound accompaniment. It is intended primarily for legal audiences, to give lawyers a new understanding and appreciation of their profession and its organizations and their expanding program of professional and public service. It is also to be available, however, to lay audiences through arrangements with bar associations. Any state or local bar association may obtain the film for a period of not more than ten days without charge except for actual postage and handling costs. Orders should be placed at least three weeks in advance of scheduled showing dates, and may be addressed to the American Bar Association Committee on Public Relations, American Bar Center, 1155 East Sixtieth Street, Chicago 37, Illinois.

Other films depicting the work of the lawyer and his professional organizations already produced and in circulation are "Living Under Law," an 18-minute sound and color film produced in 1952 by the State Bar of Michigan, and "With Benefit of Counsel," a 15-minute film, also in sound and color, produced in 1953 by the State Bar of Texas. "Living Under Law" shows the lawyer in a variety of situations characteristic of the practice of law and traces the progress of a typical case in court, while the voice on the sound track carries a running explanation and commentary. "With Benefit of Counsel" shows a lawyer father and his son discussing the son's prospective career as a lawyer. The father explains the meaning and importance of the practice of law to the lawyer, the client and the public, and his discussion is illustrated with flashbacks on the screen of scenes from his own earlier days as a lawyer. Each of these films is for sale by its producing bar association, and two prints of "Living Under Law" are available for individual showings outside the state of Michigan, without charge except for postage, from the American Judicature Society, 1155 East Sixtieth Street, Chicago 37, Illinois.



THE HOUSE OF DELEGATES of the American Bar Association is shown in action. Composed of delegates from nearly a hundred national, state and local professional organizations throughout the nation, the House is one of the greatest deliberative bodies of this country and speaks officially for all but a few of the nation's 240,000 lawyers.



CONVENTION EXHIBIT of the American Judicature Society, first displayed at the Big Seven Regional Meeting of the American Bar Association in Cincinnati, June 8-11. The four maps, which are interchangeable and replaceable, show the extent of adoption by states of four important judicial reforms. By pushing a button below, a viewer may light up any of the maps. Literature for distribution is displayed on the side panels, and on another table not shown in the photograph. At the left is a box with a slot in which cards may be dropped requesting additional materials or information. It will be kept in use at other state, regional and national conventions as much as possible. The exhibit, which is self-crating and needs only to be folded together to be ready for shipment, was designed and manufactured by Display Creators, Inc., 1220 South Michigan Avenue, Chicago.

Items in Brief

Ohio State Bar Association Celebrates Diamond Jubilee

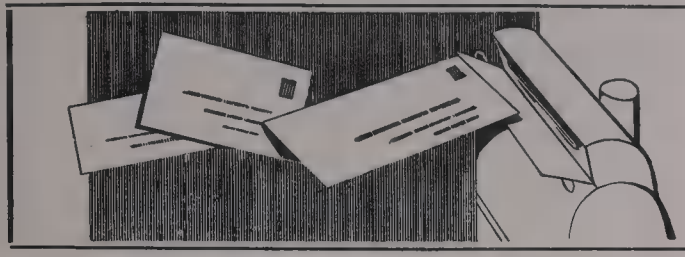
On July 8, 1880, lawyers from throughout Ohio met in Cleveland for the purpose of forming a state bar association. The Ohio State Bar Association, founded that day, celebrated its Diamond Jubilee last month in Dayton. The Association started out with 184 members and $666.49 in the treasury. Today its financial resources are past the $100,000 mark, and its 8,200 members comprise three-fourths of the lawyers and judges of the state and make it the largest unintegrated state bar association in the country. Some 1,600 persons attended the Dayton convention.

THE FEDERAL RULES will be adopted in Rhode Island if the Superior Court complies with the recommendation of the bar in a recent poll which showed 73 per cent in favor of them. Ballots were sent to 1,000 and 585 replied, 426 favoring the rules and 159 against.

TRAFFIC COURT CONFERENCES have been extended to Canada, the first being held in Fredericton, New Brunswick, on June 14.

A "PHOTOGRAPHIC SPEED TRAP" cannot be used to convict speeders, the New York Court of Appeals says. The device measures and records the speed of the car and its license number, but the court says it cannot be taken for granted that the owner of the car is necessarily the driver.

THE STATUE OF MOHAMMED, which for half a century has adorned the roof of the Appellate Courthouse on Madison Square in New York, has been removed in deference to the religious feelings of the great lawgiver's followers, who are opposed to "graven images" of any human figure.



The Reader's Viewpoint

Tax Practice and Law Practice

I read each issue of your JOURNAL with avidity, not only because of my personal friendship for you, but also because of my sincere interest in the objectives of your organization. Having admired the objectivity with which you have discussed issues in the past and the thoroughness with which you have analyzed problems, I was disappointed when I read your editorial entitled, "A Little Learning," in the last issue. It seemed to lack your usual judicial reserve, it appeared to reflect an inadequate analysis of the problem at issue, and, possibly as a consequence, it proposed a superficial solution to a serious and complex problem.

This year I am completing my twentieth year of college and university teaching of accounting and business law. On the side, I have engaged in a limited amount of public accounting practice, largely to finance my academic endeavors. During these years I have drunk deeply enough of legal learning and of accounting knowledge to be sobered by both. I am convinced, as are many of my friends in the legal profession, that accounting, like law, is a "seamless web." The determination of liabilities, including federal income tax liability, is inextricably bound up with the valuation of fixed assets, the determination of depreciation, the treatment of intangibles, the valuation of inventories, the distribution of costs, et cetera. I would not go so far as to say that no one could be trusted with any problem who has not had total training in the accounting field, but I would question the safety of entrusting to a person who had had no training in accounting any problem of which accounting elements were a substantial component.

Over the years many lawyers have complained to me that their legal education did not fit them for effective practice in those areas which involve an understanding and application of accounting principles, especially the field of income taxes. Few have approached the frankness of a prominent Chicago attorney who some years ago said to me in all seriousness, "My ignorance of accounting has cost my clients thousands of dollars." But many of them, like him, have enrolled in my evening classes in that field. However, I am fearful that too many lawyers are content to learn accounting, if at all, through the trial and error method, at their clients' expense.

From the admissions of attorneys and consistent contentions of reputable accountants, I have reached the conclusion that the effective practice of tax accounting requires basic preparation in *both* law and accounting, with particular emphasis on accounting. The Uniform Certified Public Accountant's examination, which is given simultaneously in all states twice each year, tests for proficiency in both of these fields. The bar examinations of which I have knowledge test only for proficiency in law. And in West Virginia I understand that admission to the bar is granted without examination to all graduates of the West Virginia University Law School.

The basic problem as I see it is how to prevent tax practice by incompetent persons without disqualifying competent persons and thus depriving the public of an adequate supply of necessary services. To preempt the entire field of tax practice for the lawyers would be to disqualify many non-lawyer accountants of demonstrated competence while protecting in such practice those members of the bar who have been neither trained nor tested for competence in the field of accounting.

I believe there should be a multiple approach to the solution of this problem, somewhat along the lines suggested by Dean Griswold in the enclosed article which I

clipped from the April issue of the Journal of Accountancy.

May I add that if the lawyers really want the whole of tax practice, they should prove themselves worthy of it by taking immediate measures to assure themselves and the public that they are adequately qualified to assume this tremendous responsibility.

V. D. JOLLEY
Department of Business Administration
Marshall College
Huntington, West Virginia

Editor's Reply:

The editorial was not intended to cover the whole area of conflict between these two professions, nor to support the proposition that the lowliest graduate of W.V.U. law school is more competent to cope with U. S. Steel's tax law problems than a C.P.A. with a quarter of a century of experience.

But it is an inescapable obligation of lawyers and all other professional groups to identify the boundaries of their professional practice and resist the encroachment of others thereon. I cannot accept the suggestion which has been advanced that the question of whether a certain segment of the practice of law should be handled by lawyers or by non-lawyers should be left to competition between the two. The practice of law is "affected with a public interest" within the meaning of *Munn v. Illinois,* and it is to the interest of the public that the legal profession's monopoly in it be preserved, subject to the obligation of the holders of the monopoly to render adequate service. If lawyers and accountants are to be left to fight it out with respect to the practice of law in the field of taxation, then for the sake of consistency, must we not turn the realtors and notaries loose on the drafting of legal documents? The answer is obvious but I will state it anyway. U.S. Steel can shop around and take its patronage where it is best served, but most clients are not in a position to make intelligent evaluation of the legal services they receive, and competition has no fair chance to come into operation.

The American Judicature Society and other national, state and local organizations in the legal profession have devoted themselves for years to bettering the professional education of lawyers and to encouraging their further training in certain technical fields like tax law. We applaud those lawyers who attend your evening classes in accounting. However, even after they have graduated *cum laude,* I doubt if they are yet a match for an experienced C.P.A., and, by the same token, neither does the limited amount of law that the accountant studies in preparation for his C.P.A. examination make him a match for the experienced tax lawyer. He is better qualified than as if he knew no law at all, and your evening school lawyer graduates in accounting are better equipped than as if they had had no accounting at all, but neither one is fully equipped in both fields, and I suspect that there are very few persons who are.

There is a solution which is reasonable, feasible, and acceptable to both professions. It is to be found in the joint statement drawn up in 1951 by the National Conference of Lawyers and Certified Public Accountants. Its essence is simply that the two professions should cooperate; that lawyers should refer accounting problems to accountants and accountants should refer legal problems to lawyers. In the twilight zone between the two professions there is room for reasonable latitude in dispensing with such referrals and consultations in minor matters. The best lawyers and C.P.A.'s have been cooperating in this fashion for years with splendid mutual good will and understanding. If only C.P.A.'s were involved, I think there would be no controversy now. Unfortunately, there is nobody to speak for the accounting profession as a whole. The American Bar Association has reached accord with national representatives of other professions on the basis of similar joint statements and such accord has endured through the years. If the C.P.A.'s could speak for the entire accounting profession, or if such an accord could be arrived at with other representatives of the profession as a whole, there is not a reason in the world why the same result should not be attained. In the meantime, lawyers conscious of their obligation to the public have no choice but to resist moves like those spoken of in the editorial which can have no other purpose or object than to open to non-lawyers certain areas of the practice of law.

Lawyers do not want "the whole of tax practice." I have never heard such a proposition advanced by anybody. What they do want and must have is the whole of law practice. To give legal sanction to the practice of law by non-lawyers would be to break down the boundaries of our professional system in a way that would be harmful not only to the legal profession but to all other professions, including the accountants, and to the public they all serve.

Remarks Concerning Selection of Judges

Congratulations on your February-April issue! . . . Your publication has made an unusual contribution toward the cause of justice by publishing the article of Mr. Klots and the following material on judicial candidates and their selection. The analysis by Mr. Klots is splendid. The assumption that at the present time the people are choosing their judges is fallacious, and we may say with candor that our judges are often chosen by the wrong people.

Whether a simple appointive system would cure the situation is questionable, since volumes could be written on the unfit judges who have been appointed by an executive at the suggestion, or dictation, of a political boss. It seems to me that the only fair, scientific and just way of choosing judges is by leaving their selection to a judicial council composed of deans of law schools and retired chief justices of the highest courts. Also there should be a special course of study for judges. A lawyer who aspires to be a judge should be required to take some special postgraduate courses, and he ought to serve a clerkship of a year or two or three in a court. His first appointment should be to an inferior court and his promotion to a higher court should be regulated by a judicial council.

I hope you will continue your symposium until a solution is found for taking our judiciary completely out of politics and assuring to our country judges who in order to be on the bench are beholden only to God and justice and never to a political boss.

EDWARD RAGER

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Bench and Bar Calendar

June

15-17—Traffic Court Conference, University of Illinois, Springfield.
15-18—North Carolina Bar Association, Asheville.
16-18—Bar Association of Tennessee, Memphis.
17-18—Missouri Judicial Conference, St. Louis.
22-24—Minnesota State Bar Association, St. Paul.
23-24—Utah State Bar, Salt Lake City.
23-24—Wisconsin Bar Association, Green Bay.
23-25—Mississippi State Bar, Edgewater Park.
23-25—Maryland State Bar Association, Atlantic City.
24-25—Bar Association of the State of New Hampshire, Portsmouth.
25—Massachusetts Bar Association, Swampscott.
27-30—Pennsylvania Bar Association, Bedford.
29-30—July 1-2—State Bar of Texas, Dallas.

July

7-9 —Judicial Conference, 10th Circuit, Estes Park, Colorado.
7-9 —Idaho State Bar, Sun Valley.
10-13—Commercial Law League of America, Coronado, Calif.
14-16—Montana Bar Association, Helena.
20—Alabama Association of Circuit Judges, Mobile.
21-23—Alabama State Bar, Mobile.
24-28—National Municipal League, National Conference on Government, Seattle.

August

4-6 —State Bar Association of North Dakota, Williston.
4-6 —Virginia State Bar Association, White Sulphur Springs, West Virginia.
15-19—National Association of Claimants' Compensation Attorneys Convention, Cleveland.
17-20—Conference of Chief Justices, Philadelphia.
20-24—American Law Student Association, Philadelphia.
22-26—American Bar Association, Philadelphia.
23-25—Maine State Bar Association, Rockland.
25—American Judicature Society, Philadelphia.

September

1-2 —State Bar of South Dakota, Rapid City.
1-3 —Washington State Bar Association, Yakima.
1-3 —West Virginia Bar Association, White Sulphur Springs.
1-3 —Wyoming State Bar, Cody.
7-8 —Michigan Judges Association, Dearborn.
12-16—State Bar of California, San Francisco.
14-16—State Bar of Michigan, Detroit.
22-24—Indiana State Bar Association, French Lick Springs.
22-24—Missouri Bar. Kansas City.
22-24—Oregon State Bar, Baker.

October

4 —Vermont Bar Association, Montpelier.
6-7 —Nebraska State Bar Association, Omaha.
6-8 —West Virginia State Bar, Wheeling.
10—Rhode Island Bar Association, Providence.
12-14—National Legal Aid Association, Rochester, New York.
12-15—Northwestern Regional Meeting, American Bar Association, Minneapolis.
13-15—Colorado Bar Association, Colorado Springs.
14-15—State Bar of New Mexico, Santa Fe.
17-18—State Bar Association of Connecticut, Hartford.
28—North Carolina State Bar, Raleigh.

November

14-16—Public Relations Society of America, Los Angeles.
27-30—Deep South Regional Meeting, American Bar Association, New Orleans.
29—American Judicature Society Luncheon Meeting, New Orleans.

December

7-10—Oklahoma Bar Association, Oklahoma City.

1956

January

19-21—Midwinter Meeting, Pennsylvania Bar Association, Harrisburg.

April

16-21—Inter-American Bar Association, Dallas, Texas.

June

25-28—Annual Meeting, Pennsylvania Bar Association, Spring Lake Beach, New Jersey.

July

23-28—International Bar Association, Oslo, Norway.

August

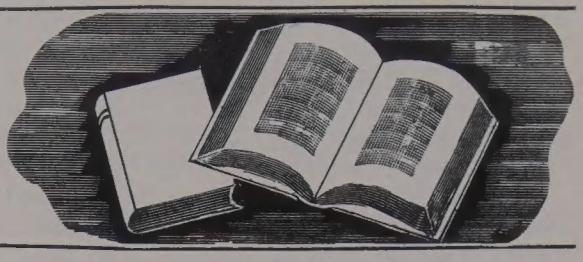
27-31—American Bar Association, Dallas.

1957

July

15-30—American Bar Association, New York (15-17) and London, England (24-30).

The Literature of Judicial Administration



BOOKS

We have previously made brief mention in this department of Harrison Tweed's history of the Legal Aid Society of New York,[1] but we wish to devote a few inches now to urging every lawyer and judge, and especially those who up to now have not been particularly interested in legal aid, to read this book. Those who do so are likely to find their own experience not unlike that of the author, who admits that when he was first offered a legal aid committee appointment he declined it for lack of either knowledge or interest. Once he was persuaded to take it, however, it got hold of him to the point that he went on to become president not only of the Legal Aid Society but also of the National Legal Aid Association.

The book portrays with a nice blending of statistics, drama and wit, the slow but steady growth of the nation's oldest and largest legal aid organization from its beginning as a service to German-speaking immigrants, up to and through its magnificent seventy-fifth anniversary celebration at the Waldorf-Astoria in 1951. Following is our comment on one feature of the book that cannot fail to attract the attention of all who open its pages:

The tone of the book is made airy,
And its chapters bright and gay,
By the verse of a guy named Harry
And the rhymes of a gal named Fay.

And so, with no thought of ragging her,
We advise every lawyer to read
Elizabeth Barrett Van Wagoner
And Henry Wadsworth Tweed.

Other books of interest and importance:

Standard Probation and Parole Act. 1955,[2] a revision of the 1940 model act for a state-administered adult probation and parole system.

1954 Annual Survey of Massachusetts Law,[3] a publication of Boston College Law School patterned after New York University's similar surveys of American law and New York law, both of which have proved their worth over a period of years.

Two volumes from the International Court of Justice—the *1953-1954 Yearbook*,[4] and a volume in English and French containing the pleadings, oral arguments and documents on the effect of awards of compensation made by the United Nationals Administrative Tribunals.[5]

The ninth edition of *A Uniform System of Citation*,[6] jointly sponsored, as before, by the law reviews of Harvard, Columbia and Pennsylvania and the Yale Law Journal.

ARTICLES

Administrative Law & Procedure

"Administrative Procedure: The Conference Submits Its Final Report," by Patricia H. Collins. American Bar Association Journal, April, 1955, pp. 311-314 and 371-373.

"The Hearing Officer Problem—Symptom and Symbol," by Ralph F. Fuchs. Cornell Law Quarterly, Winter, 1955, 281-325.

"Judicial Review of Agency Discretion," (Comment). Albany Law Review, January, 1955, pp. 19-38.

"Lawyers as Regulatory Commissioners," by Lincoln Smity. George Washington Law Review, March, 1955, pp. 375-428.

"Recent Development in the Federal Administrative Process," by Joseph Berman. Temple Law Quarterly, Fall. 1954, pp. 212-228.

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1. The Legal Aid Society, New York City, 1876-1951. by Harrison Tweed. New York: The Legal Aid Society, 1954. Paper, 122 pages.
2. New York: The National Probation and Parole Association, 1955. Paper, 45 pages.
3. Edited by William J. Curran. Boston: Little, Brown and Co., 1955. Cloth, pp. xxvii and 341. $8.00.
4. New York: Columbia University Press, 1954. Cloth, 303 pages, $3.00.
5. I.C.J. Pleadings, United Nations Administrative Tribunal. New York: Columbia University Press, 1954. Cloth, 455 pages. $4.50.
6. Cambridge: The Harvard Law Review Association, 1955. Paper, 92 pages.

Appellate Procedure

"Appellate Advocacy," by Walter V. Schaefer. Tennessee Law Review, December, 1954, pp. 471-476.

"Expressing the Idea: The Essentials of Oral and Written Argument," by Edward S. Dore. Fordham Law Review, December, 1954, pp. 229-242.

"Handling a Case so as to Simplify Effective Review," by Hugh M. Taylor. The Florida Bar Journal, April, 1955, pp. 241-248.

Bar Activities

"Fair Trial and Free Press," by Edwin M. Otterbourg. New York State Bar Bulletin, April, 1955, pp. 103-110.

"Free Press and Fair Trial—A Conflict," Law Review Note. Minnesota Law Review, March, 1955, pp. 431-444.

"Law and Medicine—A Report on Interprofessional Relations," by Edward F. Willenborg. Ohio State Law Journal, Autumn, 1954, pp. 453-457.

Any book reviewed here or in any other issue of this Journal, or any other book in the field of judicial administration, may be ordered directly from the American Judicature Society, 1155 East Sixtieth Street, Chicago 37, Illinois. We also will be glad to procure for you, at regular single-copy prices, copies of periodicals containing any of the articles here listed.

"Symposium on Legal Ethics," Florida Law Review, Winter, 1954, pp. 378-483.

"There Is No Maginot Line in Tax Practice," by William P. Burrows. Syracuse Law Review, Fall, 1954, pp. 169-182.

"Trial by Newspaper," Editorial. Connecticut Bar Journal, March, 1955, pp. 67-69.

Bar Organization

"Integration of the Tennessee Bar: Pros and Cons of an Integrated Bar," by William Wicker. Tennessee Law Review, December, 1954, pp. 457-461.

Civil Procedure

"Civil and Criminal Contempt in the Federal Courts" (Report prepared by the Los Angeles Bar Association), Federal Rules Decisions, May, 1955, pp. 167-182.

"Discovery Practice in States Adopting the Federal Rules of Civil Procedure," Harvard Law Review, February, 1955, pp. 673-685.

"Discovery Docket Speeds Court Calendar," by Jeptha W. Schureman. The Detroit Lawyer, April, 1955, pp. 54-56.

"The Use of Interpreters in Court," by William S. Murray. North Dakota Law Review, October, 1954, pp. 304-306.

Criminal Procedure

"Congressional Abolition of Perjury before Federal Grand Juries," by Raymond L. Wise. University of Florida Law Review, Fall, 1954, pp. 272-284.

"The Drama of Youth in Our Criminal Courts," by Irving Ben Cooper. Federal Probation, March, 1955, pp. 36-42.

"The Fifth Amendment: Should a Good Friend Be Abused?", by John F. O'Conor. American Bar Association Journal, April, 1955, pp. 307-310, 369-370.

"The Potential Value of Probation," by Austin H. MacCormick. Federal Probation, March, 1955, pp. 3-8.

"Problems of the Fifth Amendment," by C. Dickerman Williams. Fordham Law Review, Spring, 1955, pp. 19-52.

"The Psychiatrist as an Expert Witness," by Manfred S. Guttmacher. University of Chicago Law Review, Winter, 1955, pp. 325-330.

"Scientific Evaluation of the 'Lie Detector,'" by Eugene E. Levitt. Iowa Law Review, Spring, 1955, pp. 440-458.

International and Comparative Judicial Administration

"Enfoque Comparativo del Juez Sovietico," Alberto M. Justo. La Ley (Buenos Aires), March 30, 1955, pp. 1-3.

"Justice in a New State," by Shneour Zalman Cheshin. Pennsylvania Bar Association Quarterly, April, 1955, pp. 259-273.

"The United Nations Charter: Review and Revision," by Robert B. Ely III. Temple Law Quarterly, Fall, 1954, pp. 185-198. (Also in Law Review Digest, March-April, 1955, pp. 76-87.)

Judicial Administration—General

"Continuing to Keep the Law Alive," by Ben R. Miller. Louisiana Bar Journal, April, 1955, pp. 307-315.

"Courts and Bar May Stand or Fall," by Charles D. Breitel and Sol Neil Corbin. New York County Lawyers Association's Bar Bulletin, May, 1955, pp. 6-14.

"Legislative Developments in the Field of Judicial Administration," by Amos H. Eblen. Kentucky Law Journal, Fall, 1954, pp. 57-64.

"The Need for Procedural Reform and Simplification of the Judicial Structure," by Arthur T. Vanderbilt. Virginia Law Review, January, 1955, pp. 1-26.

"Some Observations on Our Judicial System," by Joel W. Bunkley. Mississippi Law Journal, December, 1954, pp. 1-12.

Jury Trial

"Blindfolding the Jury," by Leon Green. Texas Law Review, December, 1954, pp. 157-167. (Also in Law Review Digest, January-February, 1955, pp. 88-95.)

"Separation of the Jury in Criminal Trials," Charles W. Darnall. Jr. Louisiana Law Review, February, 1955, pp. 446-451.

Legal Aid

"Client Serving Lawyers," by Charles H. Miller. The Legal Aid Brief Case, April, 1955, pp. 80-82.

"Clinic for Legal Aid," by Gertrude Samuels. New York Times Magazine, March 27, 1955, pp. 30 & 58.

"The Human Side of Legal Aid," by J. Howard Rossbach. Bar Bulletin of the New York County Lawyers Association, March, 1955, pp. 218-219.

"The Responsibility of the Bar for Legal Aid," by William H. Avery and C. Bouton McDougal. Chicago Bar Record, April, 1955, pp. 323-324.

"The Voluntary Defender Association—A Social Audit," by Herman I. Pollock. The Shingle, May, 1955, pp. 111-116.

Legal Education and Bar Admission

"The Art of the Lawyer," by Louis Nizer. The Florida Bar Journal, May, 1955, pp. 294-306.

"Lawyer Opinion on Legal Education: A Sociological Analysis," Leonard H. Goodman and Richard W. Rabinowitz. Yale Law Journal, February, 1955, pp. 537-555.

"The Practice of Law," by Charles M. Love. West Virginia Law Review, March, 1955, pp. 53-61.

"So You Want to Practice Law," by Charles Belous. Queens Bar Bulletin, April, 1955, pp. 150-154.

Miscellaneous

"Lawyers in Literature," by Eugene M. Prince. Hastings Law Journal, February, 1955, pp. 171-179.

"Rules of Statutory Construction for Legislative Drafting," by Janice M. Pueser. Federal Rules Decisions, April, 1955, pp. 143-165.

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LATE CHIEF JUDGE, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT